

May 30, 2008

The Honorable James Oberstar  
United States House of Representatives  
Washington, DC 20515

Dear Mr. Oberstar:

On behalf of 44 agriculture, recreation and natural resource industry organizations, we are writing in opposition to H.R. 2421 Clean Water Restoration Act of 2007 legislation. We understand and support the need for the Clean Water Act passed in 1972, but it is clear that Congress intended to use the term "navigable" to decipher which waters fall under federal jurisdiction. This term preserves a critical balance of power between the states and the federal government. Deleting the term "navigable" from the statute, as proposed in this bill, would call into question Montana's responsibility for land and water decision making. Montana has one of the most progressive and comprehensive sets of water quality law in the country, and we do not see the need for the federal government to step in and supersede those statutes.

The Environmental Protection Agency (EPA) has recognized Montana as the most proactive state in the nation when it comes to protecting and enhancing water quality. The State of Montana and proponents of H.R. 2421 fail to show current policy inadequacies or justification for this proposed legislation. We agree on the need to continue care for the quality of our Nation's waters, but expansion of federal jurisdiction is not necessary to accomplish this goal.

This legislation appears to be the result of previous Supreme Court rulings, which questioned the ability of the EPA and the U.S. Army Corps of Engineers to enforce the Clean Water Act on wetlands. Currently in Montana, the Montana Natural Heritage Program concluded "In the Northwestern Great Plains and Glaciated Plains, the majority of isolated wetlands are on private lands, and stewardship practices implemented on those wetlands have resulted in better conditions than are found on state and federal ownership."

Other wetland protections include, the Montana Department of Environmental Quality's (DEQ) Technical & Financial Assistance Bureau. It is responsible for coordinating and providing leadership to wetland conservation activities state-wide. One activity is to staff and provide leadership to the Montana Wetland Council. With DEQ leadership, the council developed a draft Conservation Strategy for Montana's Wetland and Situation Assessment, which guides the council in pursuing wetland conservation activities. Wetland conservation priorities are funded by an EPA grant program administered by the DEQ Wetland Coordinator. Instead of the increased regulations anticipated in this legislation, we view additional support or funding for these types of state programs as being more environmentally beneficial.

Montana currently has forty statutes that focus on water quality, two references in the Montana Constitution, and other numerous administrative rules. It is the public policy of our state to: (1) conserve water by protecting, maintaining, and improving the quality and potability of water for public water supplies, wildlife, fish and aquatic life, agriculture, industry, recreation, and other beneficial uses; (2) provide a comprehensive program for the prevention, abatement, and control of water pollution; and (3) balance the inalienable rights to pursue life's basic necessities and possess and use property in lawful ways with the policy of preventing, abating, and controlling water pollution.

In addition, the Conservation Districts oversee 310 permits, which include any private, nongovernmental individual or entity that proposes to work in or near a stream on public or private land. We are concerned this permitting process, which has been very effective, will be handed over to the EPA and Corps of Engineers. This will ultimately make the permitting process more lengthy and costly, and take decision making out of the state's hands.

Montanans are also concerned this legislation will include authority over state ground water policy and non-point source activities, affecting the Total Maximum Daily Load Program state reporting requirements, lead to expansion of citizen lawsuits and affect land use planning. Much of our concern over this bill also focuses on how courts will interpret the legislation. Courts will look to the findings in this bill, which are very expansive and broad. With this much interpretation to be made, we have no assurances that the savings clause will provide any protection.

We recommend that Congress work in partnership with the states, to build on successful programs and provide resources where help is desired. Montana, as well as many other states, has been very successful in addressing and improving water quality. We believe any effort to build on the success of the Clean Water Act needs to be developed from the ground up.

On behalf of our organizations, we urge you to not pass H.R. 2421 Clean Water Restoration Act of 2007.

Beartooth Snow Riders  
Beaverhead Outdoor Association  
Big Sky Snowriders  
Billings Motorcycle Club  
Bitterroot Ridgerunners Snowmobile Club  
Citizens for Balanced Use  
Families For Outdoor Recreation  
Gallatin Valley Snowmobile Association  
Great Falls Trail Bike Riders Association  
Magic City 4-Wheelers  
Midland Empire Snowmobile Association  
Montana 4x4 Association  
Montana Agricultural Business Association  
Montana Association of State Grazing Districts  
Montana Building Industry Association  
Montana Coal Council  
Montana Contractors' Association (AGC)

Montana Farm Bureau Federation  
Montana Grain Growers Association  
Montana Mining Association  
Montana Motorsports Dealer Association  
Montana Petroleum Association  
Montana Powersports Dealers Association  
Montana Public Lands Council  
Montana Snowmobile Association  
Montana Stockgrowers Association  
Montana Trail Vehicle Riders Association  
Montana Water Resources Association  
Montana Wood Products Association  
Montana Wool Growers Association  
Montanans For Multiple Use  
Montanans For Property Rights  
National Off Highway Conservation Council  
Park City Recreation Club  
Prairie County Conservation District  
Ravalli County Off Road User Association  
Rimrock 4x4 Inc.  
Snowmobile Alliance of Western States  
Treasure State Alliance  
Treasure State ATV Association  
United Property Owners of Montana  
Ward Irrigation District  
Western Environmental Trade Association  
Yellowstone Gold Prospectors Association of America

Cc: Senator Max Baucus  
Senator Jon Tester  
Congressman Dennis Rehberg  
Governor Brian Schweitzer